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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,516	09/17/2003	Maiyuran Konanayakam	3000240-7034692001	4705
7590	04/05/2005			EXAMINER
Bingham McCutchen LLP Suite 1800 Three Embarcadero Center San Francisco, CA 94111-4067				YEUNG, GEORGE CHAN PUI
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/664,516	KONANAYAKAM ET AL.	
	Examiner	Art Unit	
	George C. Yeung	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on 14 December 2004.
- 2a)  This action is **FINAL**.                            2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-26,28-38,40-56,58,59 and 61-71 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 1-26,28-32,34,40,41,44,47-56,61 and 63-65 is/are allowed.
- 6)  Claim(s) 33,35-38,42,43,45,46,58,59,62 and 66-71 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

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|--|---|
| <ol style="list-style-type: none"> <li>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br/>Paper No(s)/Mail Date _____.</li> </ol> | <ol style="list-style-type: none"> <li>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/>Paper No(s)/Mail Date. _____.</li> <li>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6) <input type="checkbox"/> Other: _____.</li> </ol> |
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### **DETAILED ACTION**

Claims 33, 35-38, 42, 43, 45, 46, 58, 59, 62 and 66-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention for the following reasons.

It is not clear what apparatus structure is intended by the following limitations: the limitation "an emulsion having meat " (recited in apparatus claim 33), the limitation " heating the emulsion from a first temperature of about 40°F" (recited in apparatus claim 35), the limitation "heating the emulsion to an initial heating temperature that is less than about 120 °F " (recited in apparatus claim 36), the limitation "heating the emulsion to an initial heating temperature that is from about 70°F to about 100°F " (recited in apparatus claim 37), the limitation " initially heating the emulsion from about 5 seconds to about 30 seconds " (recited in apparatus claim 38), the limitation " heating the previously heated emulsion again to a temperature between about 130 °F and about 170 °F " (recited in apparatus claim 42), the limitation "heating the previously heated emulsion for about 2 seconds to about 60 seconds " (recited in apparatus claim 43), the limitation " reducing the casingless sausage from the second heating temperature to a temperature of about 85 °F to about 35°F " (recited in apparatus claim 45), the limitation " reducing the temperature of the casingless sausage to about 50 °F " (recited in apparatus claim 46), the limitation " forming individual pieces having a width of about 15 mm to about 30 mm " (recited in apparatus claim 58), the limitation " forming individual pieces having a length from about 1" to about 6" "(recited in apparatus claim 59), the

limitation " using steam or hot water" (recited in apparatus claim 62), the limitation " being used to initially heat emulsion but not to coagulate the emulsion "(recited in apparatus claim 66), the limitation " being used to initially heat the emulsion and partially coagulate the emulsion, but not to completely coagulate the emulsion " (recited in apparatus claim 67), the limitation " being used to heat the previously heated emulsion and completely coagulate the emulsion to produce the casingless sausage " (recited in apparatus claim 68), the limitation " being used to initially heat emulsion but not to coagulate the emulsion" (recited in apparatus claim 69), the limitation " being used to initially heat the emulsion and partially coagulate the emulsion, but not to completely coagulate the emulsion " (recited in apparatus claim 70), and the limitation" being used to heat the previously heated emulsion and completely coagulate the emulsion to produce the casingless sausage " (recited in apparatus claim 71). Note that the limitations recited in the above-mentioned apparatus claims are method limitations and thus they fail to further limit the subject matter of the previous apparatus claim in terms of positive structure.

#### ***Response to Arguments***

Contrary to applicants' contention, the temperature limitations recited in dependent apparatus claims 45 and 46 are method limitations and thus they fail to more particularly define the chiller in terms of positive chiller structure. Moreover, the width and the length of the individual sausage pieces as claimed in dependent apparatus claims 58 and 59 also fail to more particularly define the cutter in terms of positive cutter

structure. Note that the size of the resulting individual sausage pieces is not a part of the overall apparatus structure. Furthermore, the nature of the heat source as claimed in claim 62, i.e., steam or hot water, is not a structural limitation. What apparatus structure does steam or hot water describe? Steam and hot water have no form.

***Allowable Subject Matter***

Claims 1-26, 28-32, 34, 40, 41, 44, 47-56, 61 and 63-65 are allowed.

**THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Yeung whose telephone number is (571)

272-1412. The examiner can normally be reached on Monday-Friday from 10:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G. C. Yeung/af  
March 29, 2005



GEORGE C. YEUNG  
PRIMARY EXAMINER